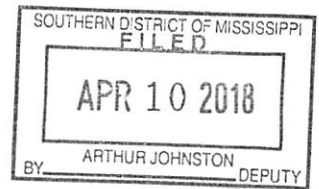


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION



DAVID CHIPMON

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:18-cv-223-CWR
FKS

THE UNITED STATES OF AMERICA,
MISSISSIPPI BAND OF CHOCTAW INDIANS,
AND
WAYNE WILLIAMS

DEFENDANTS

COMPLAINT

Comes now the PLAINTIFF, David Chipmon, by and through his attorneys and file this his complaint against the DEFENDANTS and in support thereof would show unto the Court the following, to-wit:

I

PLAINTIFF David Chipmon is an adult resident citizen, of Sebastopol, Scott County, Mississippi, and suffering under no legal disabilities.

II

DEFENDANT Mississippi Band of Choctaw Indians [hereinafter Choctaw] is the owner of the vehicle involved herein and the employer of Wayne Williams. Pursuant to the Choctaw Tribal Tort Claims Act, duly executed Notice of Claim was mailed to the Office of the Attorney General, on behalf of PLAINTIFF, via certified mail receipt #7007 2560 0000 7736 5432, on April 29, 2011, a copy of Notice of Claim and return receipt being attached hereto as Exhibit "A" and Exhibit "B," respectively. DEFENDANT Mississippi Band of Choctaw Indians may be served with process by service on Attorney General Melissa T. Carleton, 354 Industrial Road,

Choctaw, Mississippi.

III

DEFENDANT The United States of America [hereinafter U.S.], administers the Department of Interior, Bureau of Indian Affairs, and Department of Health and Human Services, Indian Health Service. Pursuant to Public Law 93-638, DEFENDANT U. S. authorized these Departments to award contracts to Indian tribes including DEFENDANT Mississippi Band of Choctaw Indians. At all times material hereto, DEFENDANT U.S. entered into such a contract with DEFENDANT Choctaw for the purpose of, among other things, wildlife game enforcement and control and animal control services. DEFENDANT The United States of America may be served with process pursuant to F.R.C.P. 4(i) by:

- (A) delivering a copy of the Summons and Complaint to the Honorable D. Michael Hurst, Jr., U.S. Attorney for the Southern District of Mississippi, at his address of 501 East Court Street, Suite 4.430, Jackson, Mississippi 39201; and/or
- (B) mailing a copy of the Summons and Complaint by registered or certified mail to the Honorable Jeff Sessions, Attorney General of the United States, at his address of U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001; and/or
- (C) mailing a copy of the Summons and Complaint by registered or certified mail to Honorable Ryan Zinke, Secretary, U. S. Department of Interior, Bureau of Indian Affairs, 1849 C Street N.W., Washington, D.C. 20240.

IV

The DEFENDANT Wayne Williams is an adult resident citizen of Neshoba County, Mississippi, suffering under no legal disability, and may be served with process according to law

at his place of residence, 128 Bates Road, Philadelphia, Mississippi or at his place of employment Mississippi Band of Choctaw Indians, Parks and Wildlife Division.

V

That at all times material hereto DEFENDANT Wayne Williams [hereinafter Williams] was an employee or agent of DEFENDANT Choctaw as the driver of a vehicle owned, maintained and used by DEFENDANT Choctaw in the furtherance of its business pursuits and was acting in the course and scope of his employment with DEFENDANT Choctaw.

Additionally, at all times material hereto DEFENDANT Wayne Williams, while an employee or agent of DEFENDANT Choctaw as the driver of a vehicle owned, maintained and used by DEFENDANT Choctaw in the furtherance of its business pursuits and acting in the course and scope of his employment with DEFENDANT Choctaw pursuant to the terms and conditions of the 93-638 contract DEFENDANT U.S. entered into with DEFENDANT Choctaw, took all actions and inactions within the course and scope of his duties performing contract functions under Public Law 93-638.

VI

This matter is brought pursuant to the Federal Tort Claims Act, 28 U.S.C. §2671 et. seq. This Court has jurisdiction of this matter pursuant to 28 U.S.C. §1346(b).

Venue is proper in this Court because the negligence of the DEFENDANTS and their agents, servants and employees occurred in this district.

VII

Proper written notice of the intention to file this action has been provided to the DEFENDANT U. S. and PLAINTIFF has exhausted all of his administrative remedies as evidenced by the notice of receipt of claim attached hereto as Exhibit "C" and denial of said

claim attached hereto as Exhibit "D."

VIII

On or about the 5th day of May 2010, PLAINTIFF David Chipmon was operating his 1994 Ford automobile in a reasonable, safe and prudent manner East on MS 492 in Newton County, Mississippi. DEFENDANT Wayne Williams, who was operating a MBCI Parks and Wildlife Division truck owned by DEFENDANT Choctaw, was stopped at the stop sign at the intersection of Kitchener/Conehatta Road and MS 492. DEFENDANT Williams then failed to yield the right of way and pulled out in front of PLAINTIFF'S vehicle. As a result of DEFENDANT Williams' actions and/or inactions in the operation of DEFENDANT Choctaw's truck, a collision between the vehicles occurred. The collision was of sufficient force and violence that it totaled the PLAINTIFF'S truck and proximately caused or contributed to the injuries herein complained of suffered by PLAINTIFF.

IX

All acts or omissions of the DEFENDANT Williams constituting negligence occurred while in the scope of his employment with the DEFENDANT Choctaw and are imputed to the DEFENDANT Choctaw. Additionally, and based on information and belief, DEFENDANT Williams, at the time of his negligent conduct, was also carrying out functions within the course and scope of the duties pursuant to the 638 contract functions between DEFENDANT U.S. and DEFENDANT Choctaw and are therefore imputed to DEFENDANT U.S.

X

As a direct and proximate result of the DEFENDANTS' negligence, PLAINTIFF David Chipmon sustained severe and serious painful injuries for which medical, hospital, doctor, physical therapy and drug bills were incurred and will be incurred in the future, has experienced

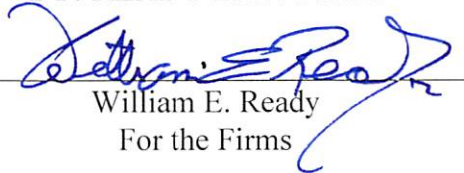
both mental and physical pain and suffering and will be caused to undergo physical pain and suffering in the future, has incurred and will continue to incur lost wages, and will suffer with a permanent disability due to his injuries, and has thereby suffered damages in the amount of \$1,400,000.00.

WHEREFORE, PREMISES CONSIDERED, PLAINTIFF brings this action and demands judgment of and from the DEFENDANTS, jointly and severally, in the amount of \$1,400,000.00, together with interest from the date of judgment, and all costs herein.

Respectfully submitted, this the 10 day of April, 2018.

DAVID CHIPMON
BY: READY LAW FIRM

By: _____


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